

## **REMARKS**

This amendment is in response to the office action dated February 2, 2004. In the office action, claims 1-9 were rejected. Claims 1-9 amended. Claims 10-15 are withdrawn. A detailed discussion of each item in the office action follows.

### **THE RESTRICTION REQUIREMENT**

In items 1-6 of the office action, the Examiner listed Groups I-II which are subject to a restriction requirement. Applicant's Attorney affirms the election of Group I, claims 1-9 made via telephone conversation with the Examiner on January 20, 2004. Applicant's Attorney is responding in traverse to the restriction requirement for the following reasons. Applicant's invention is designed to provide a method of cleaning paint sprayers which provides advantages not found in the prior art. Namely, it thoroughly cleans the sprayer, but does so in a minimal amount of time.

Regarding hand cleaning, the process performed by Applicant's invention cannot be performed by hand, because hand cleaning is an exceptionally time consuming process. Applicant's invention is specifically intended to clean paint sprayers in a minimal amount of time.

In regard to the use of the device for painting or coating, painting and coating devices are designed to apply an even external coating to the external surface of an object. This is not the intent of Applicant's invention. Further, Applicant's invention could not be used to apply an even coat to external surfaces, because it is designed to clean the internal paint path of the sprayer. The spray nozzles used by Applicant are aimed at the apertures in the various components of the sprayer. Likewise, the brackets, trays and supports used to hold the components of the sprayer are positioned to align the apertures in the sprayer components with the nozzles. As a result, the cleaning solvent is flushed through the internal paint paths of the sprayer. Applicant's Attorney is aware of no other device

that is structured in like manner. This unique structure allows the user to very rapidly place the sprayer components in position such that the internal paint paths are automatically aligned with the spray nozzles. Applicant's Attorney is aware of no coating or painting device that is capable of automatically aligning components of the sprayer for rapid cleaning.

Applicant's Attorney respectfully requests the Examiner to reconsider the restriction requirement in light of the foregoing traversal.

### **THE DRAWINGS**

In items 7-8 of the office action, the Examiner required correction of figure 7 to indicate that it is prior art. A proposed drawing amendment is attached with the correction made per the Examiner's instructions. In addition, a complete set of formal drawings have been attached to replace the informal drawings filed with the original application. In addition, a second set of drawings, marked in red, is included for the Examiner's convenience.

### **FORMALITIES**

In item 9 of the office action, informalities in the specification were noted. The specification has been amended to correct the errors as suggested by the Examiner. Specifically, on page 11, line 17, the term "paint" was amended to read –pointed–, and on page 13, beginning of the second paragraph, the term "close of" was amended to read –close up–.

### **THE CLAIM OBJECTION**

In item 10 of the office action, claim 6 was objected under to 35 U.S.C. 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 6 was amended in response to this item of the office action as follows:

Claim 5 was amended to eliminate the means to align the nozzle, because the nozzle can be in a fixed location as illustrated by figures 10 and 11. This structure is useful in situations where the same model paint sprayer is always used. Claim 6 was amended to more clearly describe an adjustable nozzle structure such as that shown in figures 2-6. This structure is useful in situations where different types of paint sprayers are used.

### **THE 112 REJECTION**

In items 11-12 of the office action, claims 2-3 and 5-9 were rejected under 35 U.S.C. 112, second paragraph as being indefinite. Applicants attorney believes that the term “means to align” is broader than flexible tubing. Flexible tubing is used throughout the specification because Applicant believes flexible tubes to be the most convenient method of adjusting the nozzles. However, other methods are known, and are discussed in the specification. For example, on page 7, lines 2-7 of the application is originally filed, applicant described several methods of adjusting the nozzles, as follows:

“However, while the extension tube is discussed as being flexible, it is understood that the term flexible, as used herein, is intended to mean having the ability to move so as to permit alignment of the cleaning nozzles with the holding devices. Therefore, the term is intended to include rigid tubes which are movable as the result of having hinged arms, etc., as well as tubes which are flexible in the strict definition of the word.”

The term “flexible tubes” which is used in the claims is intended to mean the plain English definition of flexible tube. The claims, as now amended, which refer to “adjustable nozzles” include both flexible tubing and other methods of adjusting the nozzles such as movable rigid tubes, tubes with hinged arms, etc.

The claims were amended in response to this item of the office action to more particularly define this distinction. In particular, claims 2, 5 and 8 was amended to more particularly describe the general class of adjustable nozzles which may have flexible tubes, or other types of adjustable nozzles, and claims 3, 6 and 9 was amended to describe the type of adjustable nozzle which uses flexible tubing to make the adjustment.

Regarding claim 7, claim 7 was amended to include structural elements which further define the bracket.

In addition, claims 5-9 have been amended to change the term “Apparatus” to –Kit–.

### **THE 102(b) REJECTION**

In items 13-14 of the office action, claims 1-5 and 7-9 were rejected under 35 U.S.C. 102(b), as being anticipated by Nygren. Nygren does not anticipate Applicant’s invention for the following reasons:

1. Nygren is not known or capable of performing the function of this invention, nor does it teach the disclosure of this invention.
2. Nygren does not disclose the purpose, means or mechanism that this invention discloses.

3. Nygren does not solve the problems that this invention solves.
4. Nygren does not disclose each and every element of this invention.
1. **Nygren is not known or capable of performing the function of this invention, nor does it teach the disclosure of this invention.**

There is not anticipation by a prior patent not known or recognized as being capable of performing the function of the patented device, but rather the prior patent must itself do the teaching. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 U.S.P.Q. 385 (1984); Edstrom-Carson & Co. v. Onsrud Machine Works, Inc., 129 U.S.P.Q. 457.

Nygren is not capable of functioning the same as this invention because Nygren is a prior art spray cleaner which merely flushes cleaning fluid through the paint channel. It is typical of not prior art gun washers used in the industry. All gun washers have nozzles, basins and holders. Conventional gun washers flush the spray gun by passing solvent through the gun and also have the ability to clean the canister as well. A conventional gun washer does not address the idea of cleaning each individual component of the paint spray gun. The flexible hoses in Nygren are another way to mount a flushing system into the gun. This also does not differ from other gun washer cleaning system.

After the sprayer is cleaned by the Nygren device, the painter still has to disassemble the sprayer to clean all the individual components. The problem left unaddressed by Nygren and other prior art devices is a substantial amount of time required to clean the remaining components of the sprayer. As a result, the prior art provides negligible time savings for the painter. Referring to figure 1 of Applicant's invention, this figure illustrates all the components of a typical paint sprayer. Each of these components is individually cleaned with individual apparatuses.

Applicant's kit provides a painter with a substantial time savings because the painter can merely disassemble the entire sprayer, place the individual components in specific trays designed to hold them, and cleaned all of the components in a single step. This saves a substantial amount of time for the painter, and free up that time for more productive work. All prior devices address the internal channel, such as Nygren, or the canister. There is no prior art which is directed to cleaning all the components individually in a single step.

In addition to providing the painter with more time for other work items, the increased speed and simplicity provided by Applicant's invention allows the painter to minimize skin contact with cleaning solvents by eliminating the need of the painter to individually clean each component of the spray gun. This provides a painter with a health advantage by eliminating, or reducing contact with, caustic chemicals.

**2. Nygren does not disclose the purpose, means or mechanism that this invention discloses.**

There is no anticipation where a reference does not disclose the purpose, means and mechanism for accomplishing the instant invention but rather is restricted to a limited and different means. Sperry Products, Inc. v. Aluminum Company of America, 120 U.S.P.Q. 362.

The goals or objects of Applicant's invention, without limitation, are to provide the painter with her once the cleaning process which cleans every component of the spray gun simultaneously. Nygren does not disclose any such method sense is specifically designed to clean the internal channel spray gun. Unfortunately this is just a small part of the planning process. Nygren does not disclose any method of handling all the components of a spray gun independently, which would have allowed the simultaneous cleaning of the components. As a result, Nygren takes only ones that in what is for painters using the Nygren device a multistep process that requires substantial manual cleaning effort afterwards.

Nygren cannot meet these objects to the extent that Applicant's invention can, because Nygren does not teach or suggest any method of simultaneously and independently cleaning all of components of the spray gun. Applicant's invention does.

Further, the mechanisms by which this invention accomplishes the aforementioned objects is substantially different from Nygren. This invention includes a structural means to independently hold each component of the spray gun in individual holding devices, which are not present in Nygren. Applicant's invention also teaches the use of multiple external nozzles directed at specific locations once breakdowns so that the internal channels of the spray guns may be cleaned by one set of nozzles, while the other components are cleaned by other nozzles dedicated to cleaning the various independent components.

**3. Nygren does not solve the problems that this invention solves.**

There is no anticipation if a prior patent does not solve the problem(s) which the subsequent patent successfully solves. Technical Development Corporation v. Servo Corporation of America, 125 U.S.P.Q. 133.

As discussed above, Nygren does not solve the problem of cleaning the entire spray gun, including each individual component. It merely claims the internal channel in the spray gun. Applicant's invention does solve the problem of cleaning the entire spray gun, including each component, and it does this in a single step which does not require the painter to follow up an initial cleaning process with a manual cleanup.

**4. Nygren does not disclose each and every element of this invention.**

There is no anticipation if the reference does not disclose each and every element of the claimed invention. SSIH Equipment S.A. v. United States International Trade Commission, 718 F.2d 365, 218 U.S.P.Q. 678 (1983).

Nygren does not disclose the structural elements necessary to individually position and alignment components of a disassembled spray gun with individual cleaning nozzles such that all of the components can be simultaneously cleaned. Nygren merely provides two things: a conventional basin and clips 98 for retracting the trigger of the a spray gun to allow an open path for the flow of solvent. Applicant's invention does not use a clip such as that use by Nygren to hold the trigger open. In Applicant's invention, all the components are disassembled prior to cleaning. As a result there is no obstruction to the flow of cleaning fluids and there is no need for a clip to hold the trigger in the open position. Applicant's holding devices have an entirely different purpose than Nygren. They are used to individually position disassembled components in front of their respective nozzles.

For all the reasons set forth above, Applicant's invention is not anticipated by Nygren. To more clearly defined applicants invention over Nygren, the claims have been amended to more particularly describe the ability of Applicant's invention to clean not only the internal channel, but to simultaneously clean the external casing and all individual components. Applicant's Attorney has amended the claims to include limitations directed to the ability of Applicant's invention to simultaneously claim all the components of a paint sprayer. Applicant's Attorney respectfully requests the Examiner to review the claims, as now amended, with a view toward allowance.

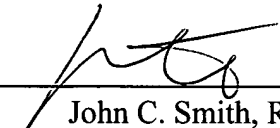
### **CONCLUSION**

Applicant's Attorney thanks the Examiner for the Examiner's help in prosecuting this invention. In response to the office action, Applicant's Attorney has amended the drawings, the specification, and claims 1-9. Claims 10-15 are withdrawn. Applicant's Attorney has been careful to avoid the




introduction of new matter. In addition, a separate petition and fee for a three month extension of time is attached. Applicant's Attorney believes that all items in the office action dated February 2, 2004 have been addressed, and respectfully requests the Examiner to reconsider the claims, as amended, with a view towards allowance. Applicant's Attorney further invites the Examiner to contact Applicant's Attorney for a telephonic interview at the below listed number if the Examiner believes that prosecution of the application can be furthered by so doing.

Respectfully submitted,

By:   
John C. Smith, Reg. No. 33,284

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on: August 2, 2004  
Date of Deposit

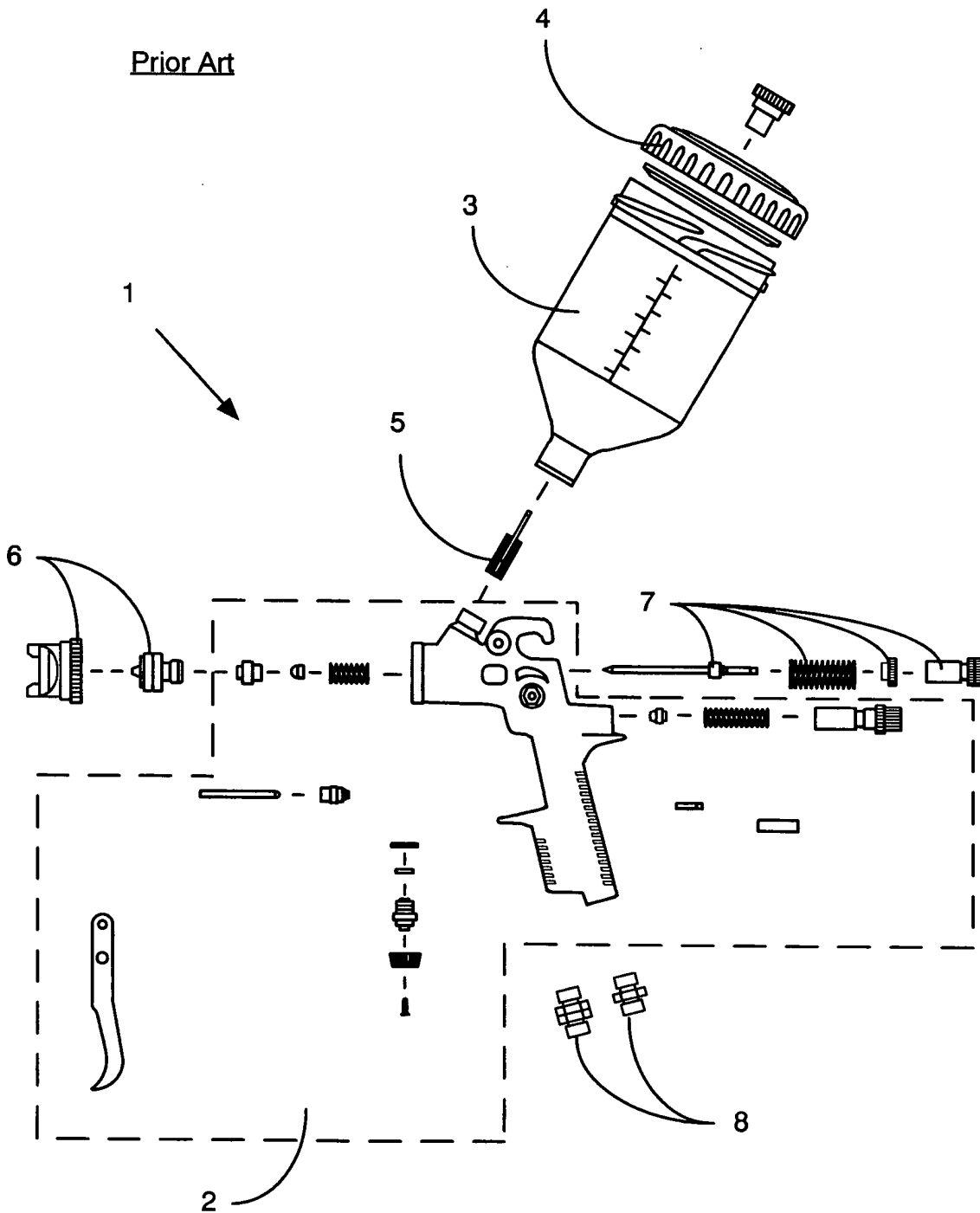
  
John C. Smith, Reg. No. 33,284

August 2, 2004  
Signature Date



Figure 1

*Formal  
Drawing*



Substitute Drawing



Formal  
Drawing

Figure 2

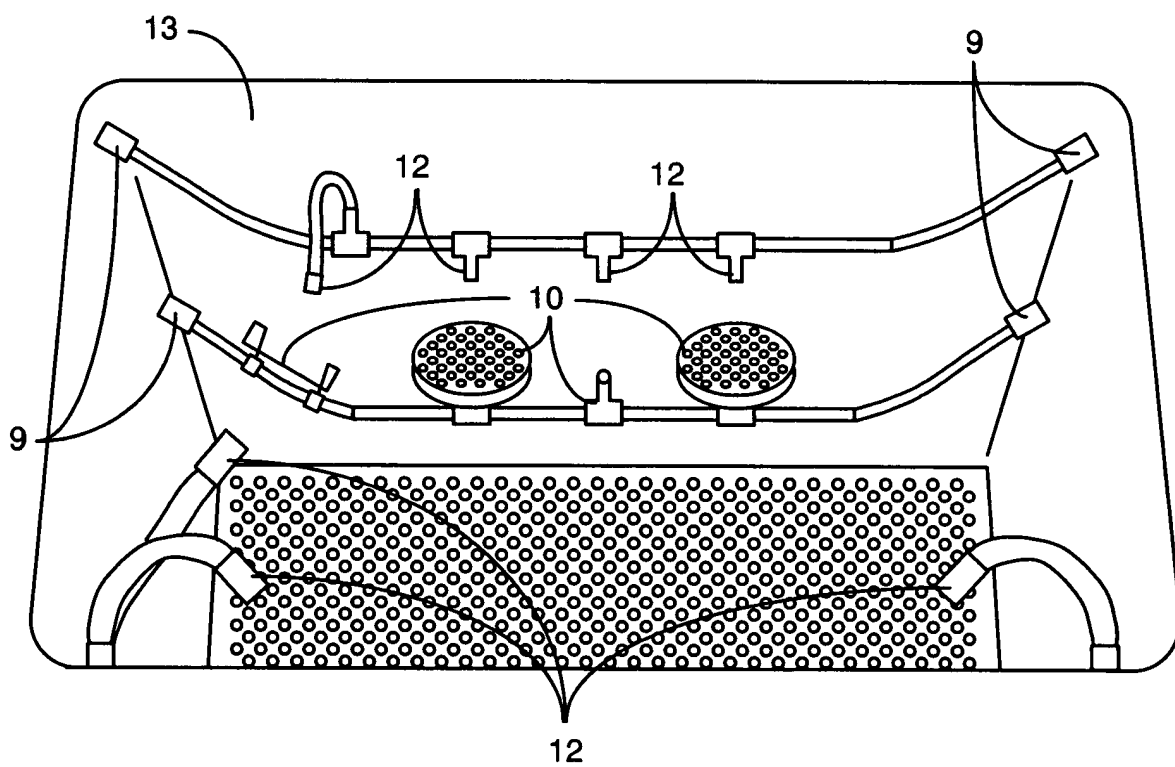
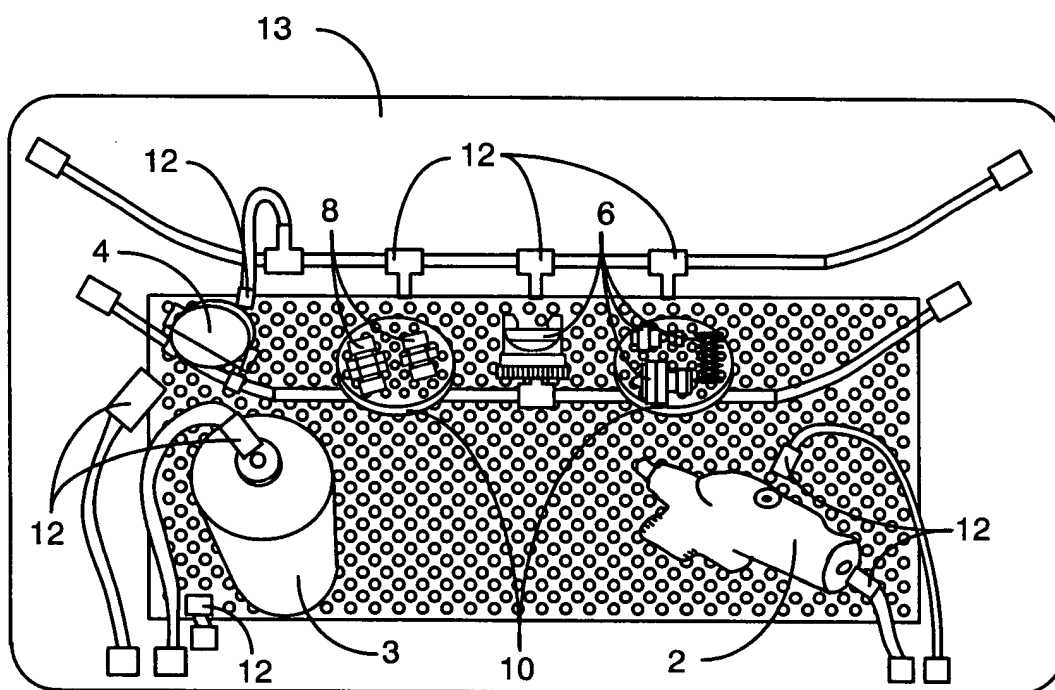




Figure 3

*Formal  
Drawing*



Substitute Drawing



Figure 4

*Formal  
Drawing*

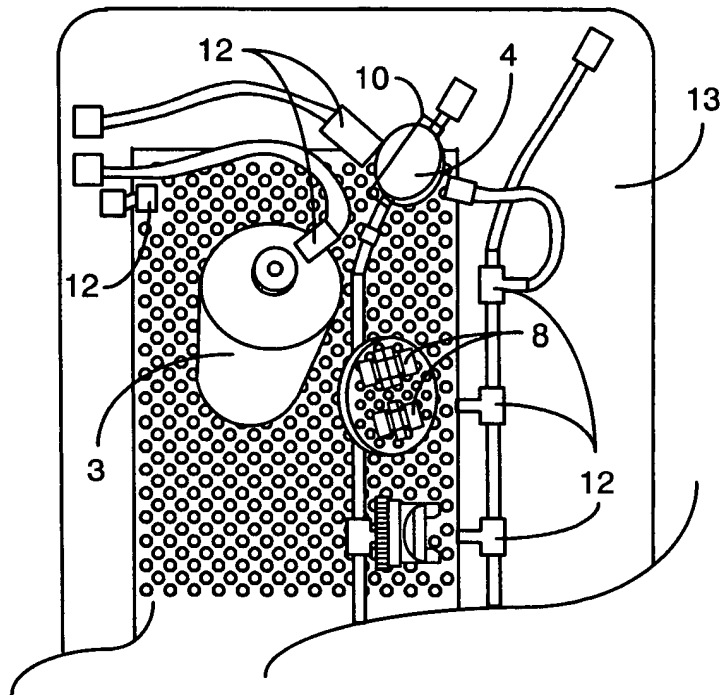




Figure 5

*Formal  
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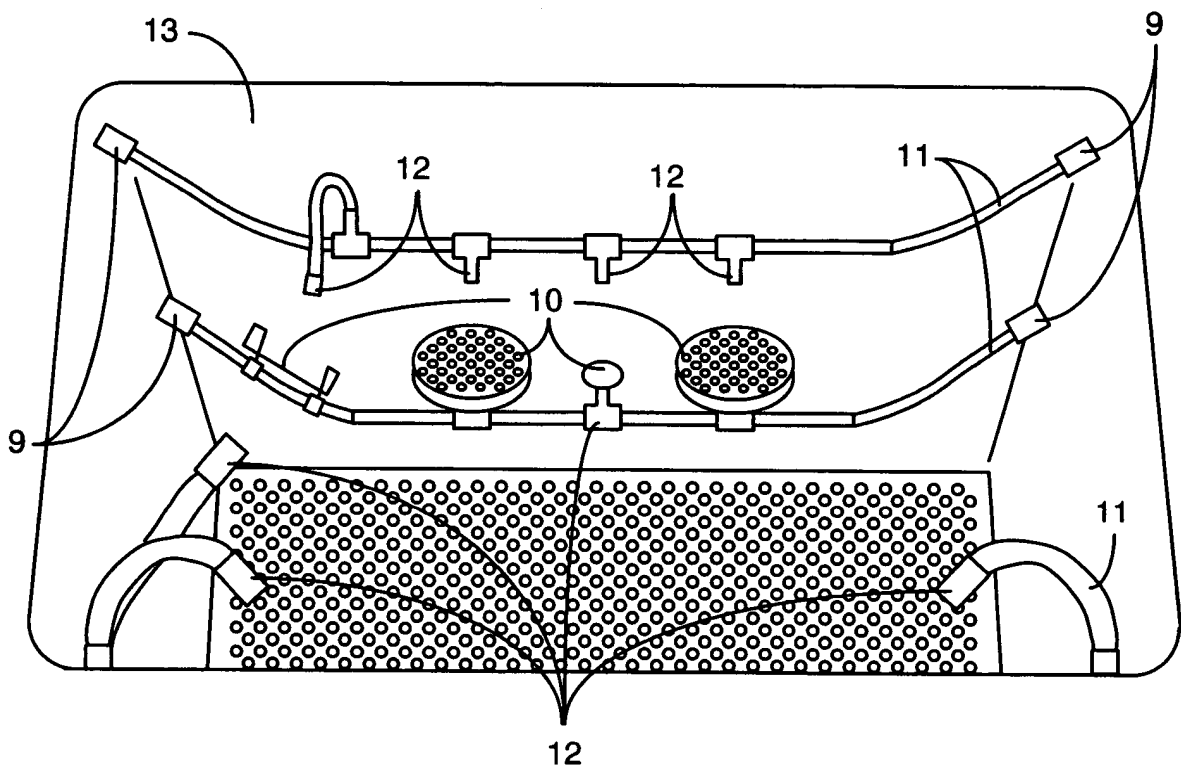
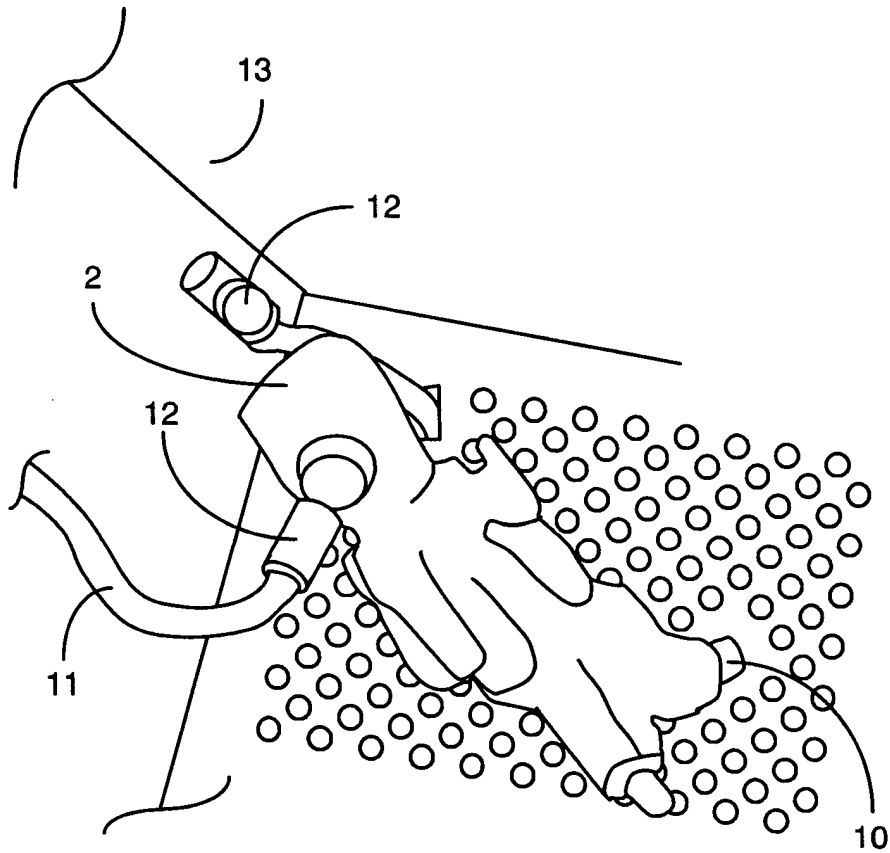




Figure 6A

*Formet  
Drawing*

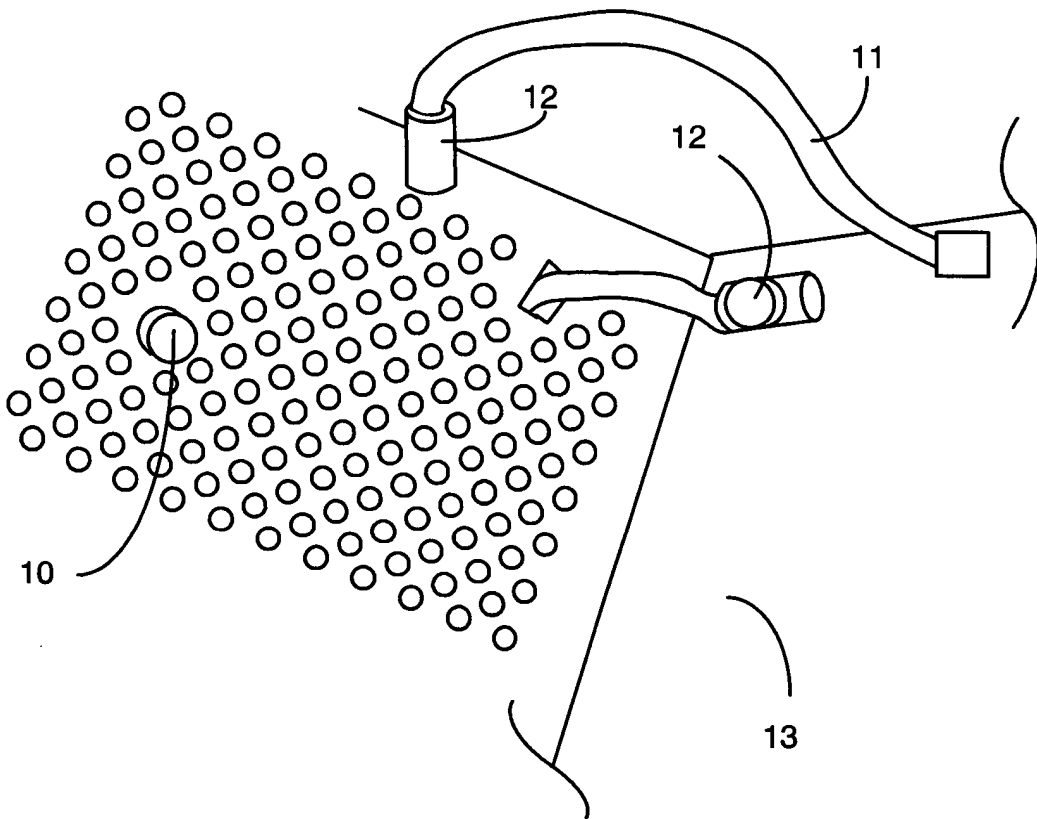


Substitute Drawing



Figure 6B

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Drawing*



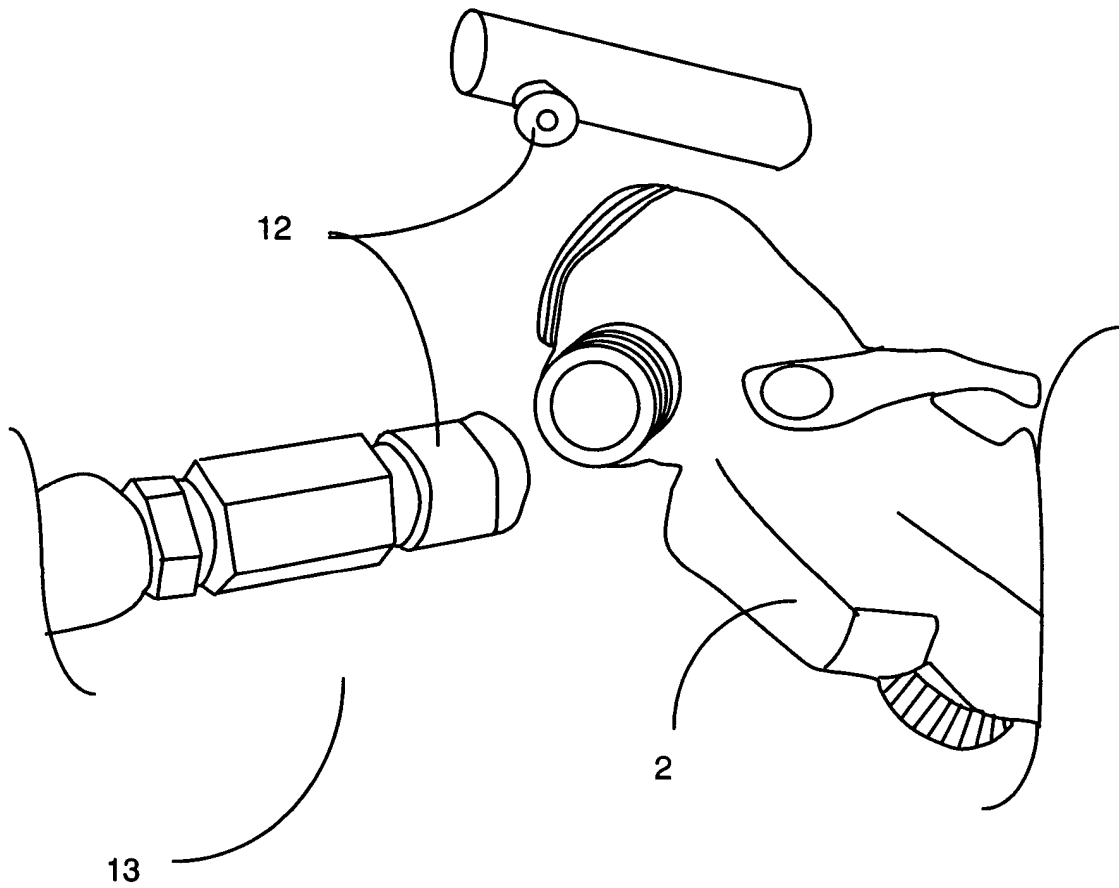
Substitute Drawing





Figure 6C

*Formal  
Drawing*



Substitute Drawing



*Formal  
Drawing*

Figure 7

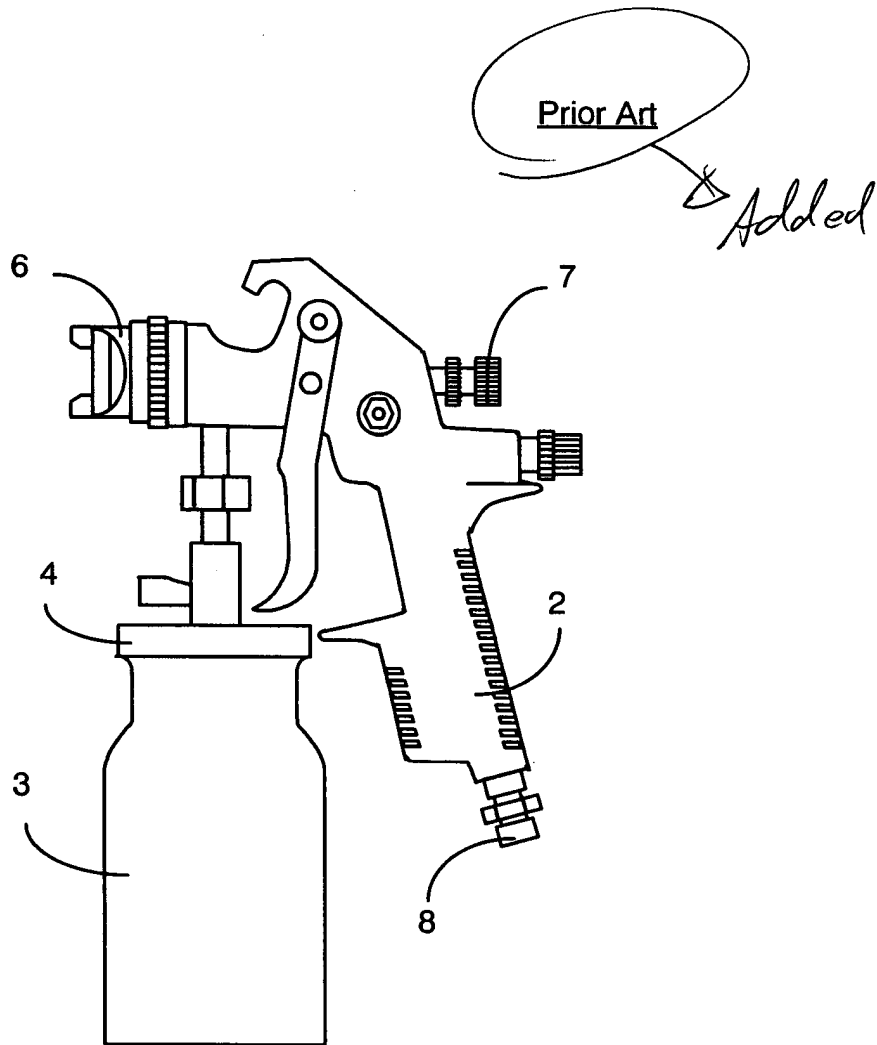
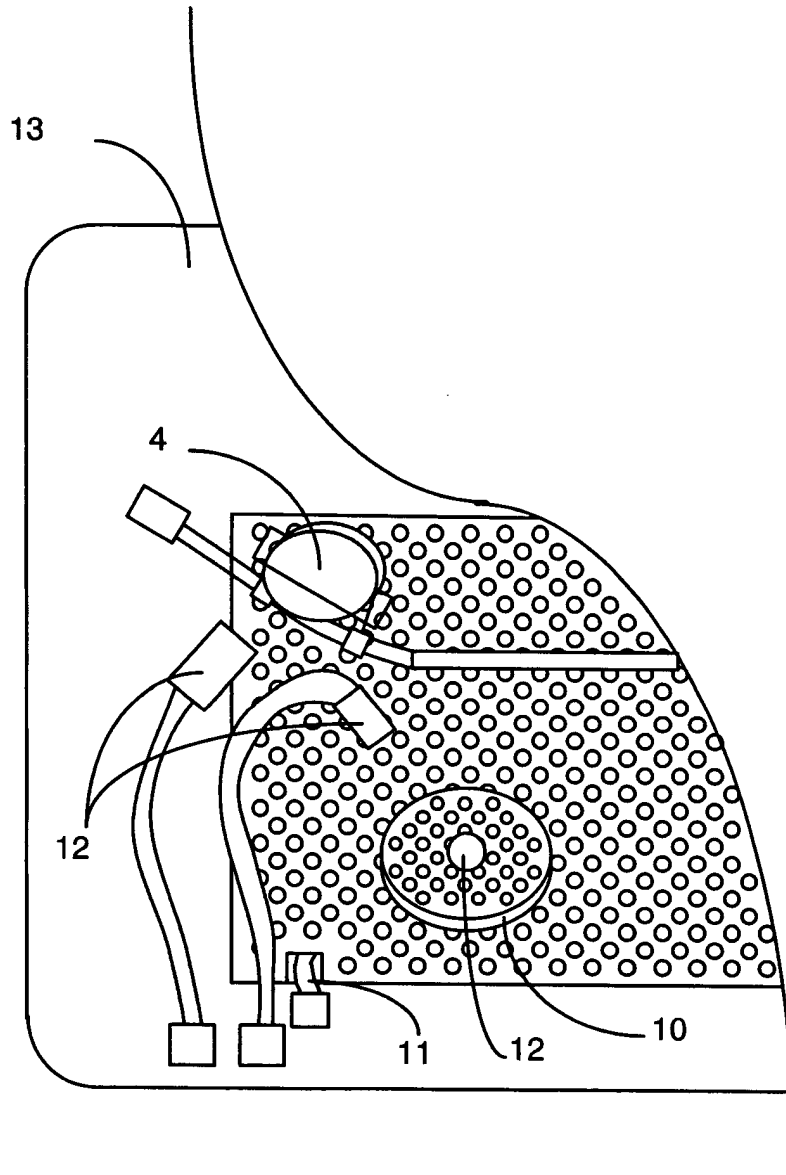




Figure 8

*Formal  
Drawing*

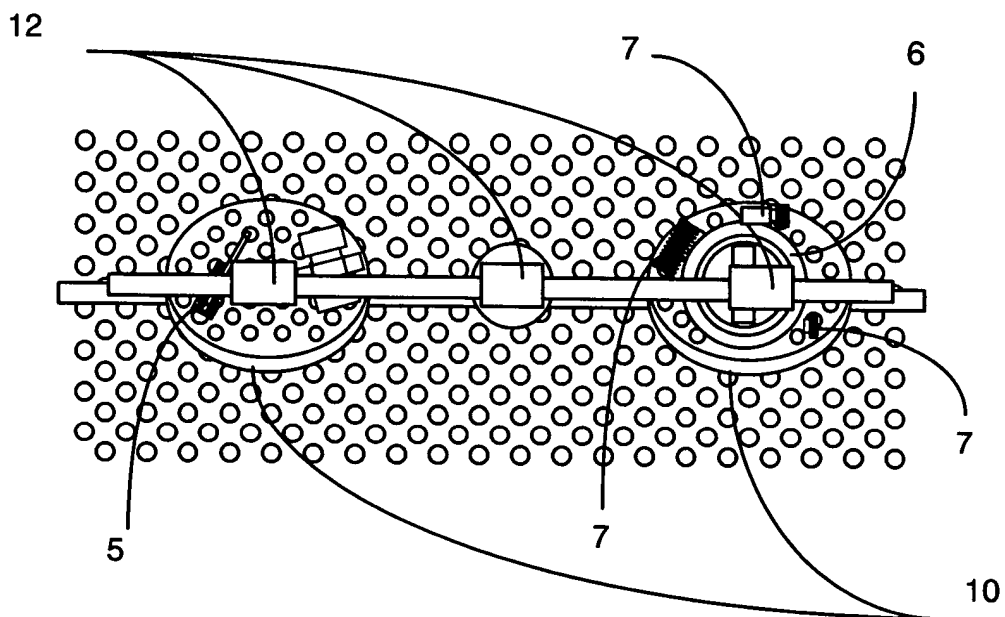


Substitute Drawing



Figure 9

*Formal  
Drawing*

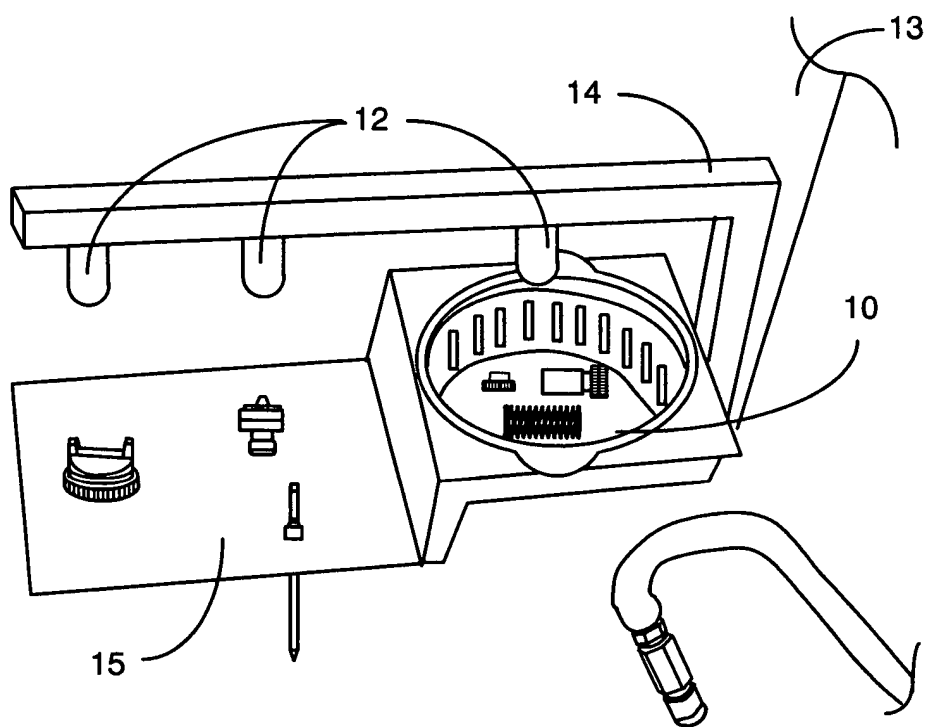


Substitute Drawing



Figure 10

*Formel  
Drawing*



Substitute Drawing



Figure 11

*Formal  
Drawing*

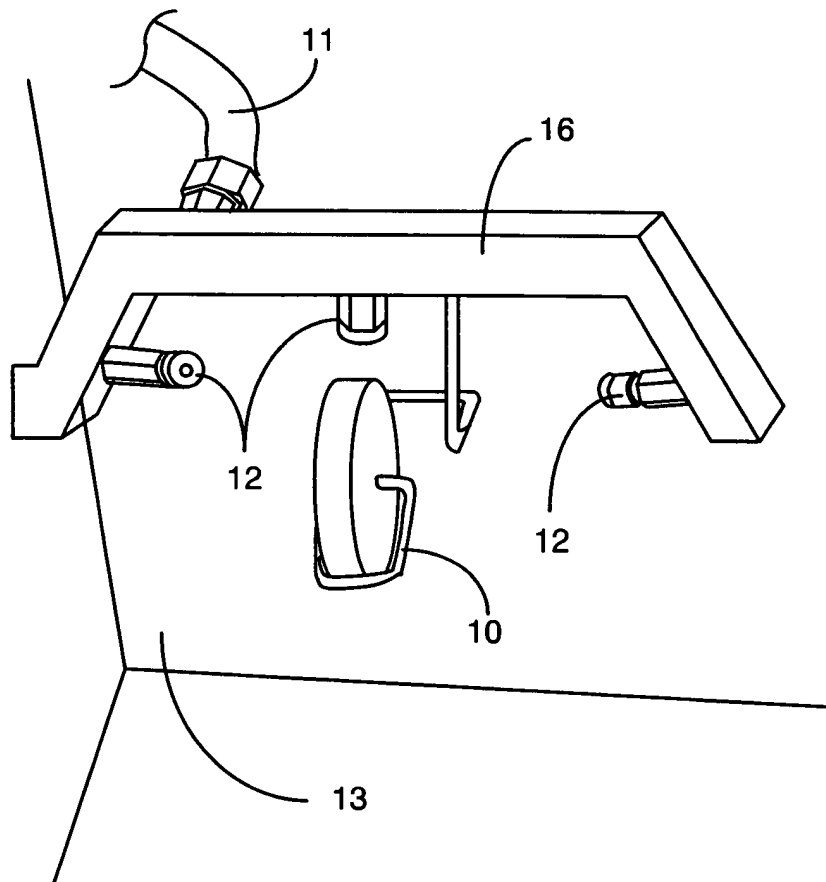
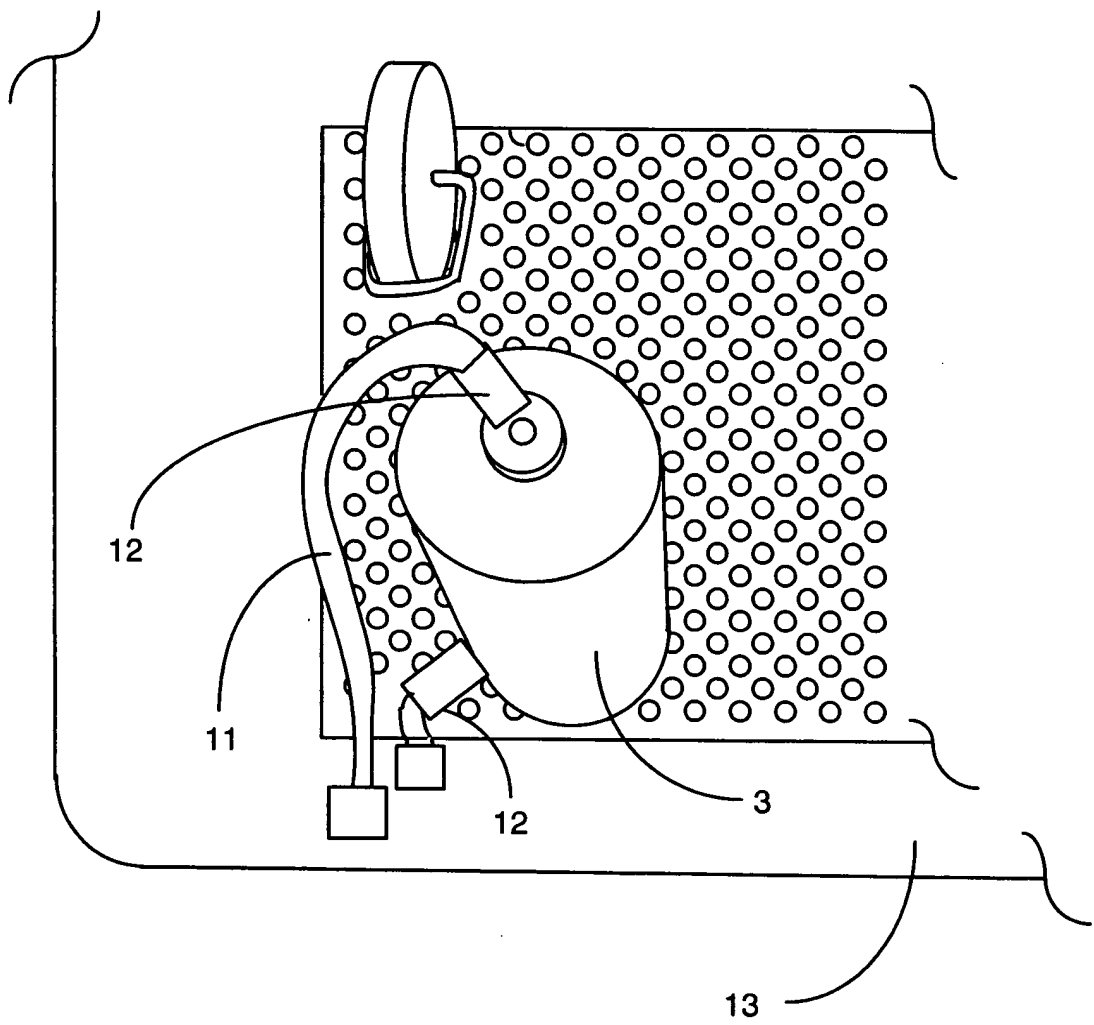




Figure 12

*Formal Drawing*



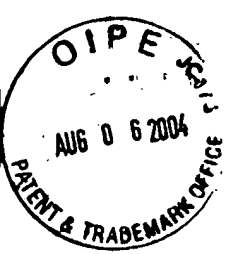


Figure 13

*Forward  
Drawing*

